

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 552 of 2000

in

SPECIAL CIVIL APPLICATION No 9482 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

HANSABEN RAMANJI THAKORE

Versus

STATE ELECTION COMMISSION

Appearance:

MR KS JHAVERI for Appellant
MR NV ANJARIA for Respondent No. 1
SERVED for Respondent No. 2
MR HS MUNSHAW for Respondent No. 3
DELETED for Respondent No. 4
MS SEJAL K MANDAVIA for Respondent No. 6

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE M.C.PATEL

Date of decision: 13/03/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

When this Appeal is called out, it was pointed out that Election Petition No.2 of 2000 has been preferred by the petitioner before Civil Judge (Junior Division), Siddhpur under Section 31 of the Gujarat Panchayats Act, 1993. As provided by Article 243(0) of the Constitution, notwithstanding anything in the Constitution, no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State. In *Ambabhai vs. D.A. Pandey* reported in 30 (2) GLR 1385, a Division Bench of this court had held that a writ petition is not the proper remedy for directing the authority to accept the nomination papers and the remedy of such a person is to challenge the election as per Section 24 of the Act of 1961. In view of the provision of Article 243(0)(b) of the Constitution, the writ petition could not have been entertained. The learned Judge has dismissed the petition observing that there is no merit in it. In the process, the learned Judge has given a finding on the question as to whether the nomination paper was rightly rejected and held that it was rightly rejected as there was no valid caste certificate. Even such a finding could not have been given since these are matters which are to be decided in the election petition. Therefore, these observations and findings of the learned Judge will not come in way in the election petition which has been filed by the petitioner. The learned counsel appearing for the petitioner states that in view of the election petition filed by the petitioner, which he desires to pursue, this Letters Patent Appeal is not pressed. The Appeal is, therefore, dismissed subject to the above observations. There shall be no order as to costs.

(R.K. Abichandani, J.)

(M.C. Patel, J.)

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